***THE HON'BLE SRI JUSTICE L.NARASIMHA REDDY***

***W.P.No.19128 of 2005***

***Date:30.08.2005***

N.B.Rao, Driver, APSRTC, E.301906,

C/o. A.S.Reddy, Conductor, Huzurabad,

Karimnagar District.

----------Petitioner

The Depot Manager

----------Respondent

***ORDER:***

The petitioner is employed as a driver in APSRTC. While he was driving the bus on the route from Huzurabad to Karimnagar on 24.04.1994, an accident was caused resulting in injuries to a cyclist and damages to cycle and jeep. The petitioner was issued a charge sheet, dated 04.09.1994, directing him to explain as to why necessary disciplinary action shall not be taken against him for the lapse on his part. The petitioner submitted his explanation on 29.05.1994. On consideration of the said explanation, the respondent passed an order, dated 08.06.1994, imposing penalty of stoppage of annual increment for a period of two years and further directed that it shall have the cumulative effect on the future increments. The petitioner challenges the same.

The only point urged by Sri P.Govinda Rajulu, the learned counsel for the petitioner, is that the respondent imposed the penalty of stoppage of annual increment for a period of one year with cumulative effect without conducting departmental enquiry. He placed reliance upon the judgment of the Apex Court in ***KULWANTH SINGH GILL v. STATE OF PUNJAB*** and submits that stoppage of increment is a major penalty and it cannot be imposed, except by conducting departmental enquiry.

Smt N.Rajani Reddy, the learned Standing Counsel appearing for the respondent, on the other hand, submits that the penalty imposed against the petitioner itself is minimal, if the lapse on his part is taken into account.

It is a matter of record that the respondent imposed the penalty of stoppage of annual increment for a period of two years with cumulative effect, on the allegation that the petitioner was negligent in performing his duties. Though a charge sheet was issued to the petitioner before the penalty was imposed, no departmental enquiry was conducted. I n ***KULWANTH SINGH GILL's case*** (supra), the Supreme Court held that stoppage of increments with cumulative effect is a major penalty and it cannot be imposed, except by conducting departmental enquiry. In view of the same, the impugned order cannot be sustained.

In the ordinary course of things, the impugned order needs to be set aside, leaving it open to the respondent to pass fresh orders. To avoid further delay and complication in the matter, this Court is of the view that the impugned order can be treated as the one for stoppage of one increment for a period of two years.

cv Hence, the writ petition is partly allowed directing that the order, dated 08.06.1994, passed by the respondent shall be treated as the one for stoppage of one increment for a period of two years. However, the petitioner shall not be entitled for any monetary benefit that had accrued up to the date of this order. There shall be no order as to costs.

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**30.08.2005**

**Jsu**